THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19689 of 1996

ORAL ORDER:

This writ petition is filed seeking Certiorari to quash the order passed in S.A.No.40 of 1995 dated 8.12.1995 on the file of the Second Appellate Authority under the A.P. Shops and Establishment Act, 1988 and the Assistant Commissioner of Labour, Hyderabad-IV. The order reads as under:

> "Orders have been passed by this Second Appellate Authority dismissing the Second Appeal on the ground that there is no valid reason to question the orders passed by the first Appellate Authority in S.E.Nos.17 to 20/95".

It appears, respondents 2 to 5 filed cases before the Authority under Section 50 of the A.P. Shops and Establishment Act, 1988 (for short 'the Act') bearing S.E.Nos.17 to 20 complaining that their services were terminated on 26.6.1995. The petitioner-management resisted the said claim stating that the management never terminated the services of respondents 2 to 5 and on the other hand they are ready to take them into service. In spite of the same, the Labour Officer passed the following order:

"After considering all the aspects, I have come to conclusion that the applicants are entitled to:

1. Duty pay from 1.6.1995 to 24.6.1995 since the workman have attended for duty upto 24.6.1995 as per Ex.R3 i.e. Employment Register.
2. Notice pay for one month since the management has failed to give any notice in absence to the applicants before terminating the services orally.
3. Service compensation from 1988 to 24.6.1995 for (7) seven years since they have worked from 1988 to 24.6.1995. The opposite party has failed to produce the copies of the appointment letters said to have been

issued to the applicants and there is no other alternative except to rely upon the evidence of the applicants.

Aggrieved by the same, petitioner-management carried the matter in appeal before the Second Appellate Authority under the A.P. Shops and Establishment Act, 1988 and the Assistant Commissioner of Labour, Hyderabad-IV. It is unfortunate that the Second Appellate Authority, as noticed above, has passed a cryptic order without appreciating the evidence and material on record. No detailed order was passed by the second appellate authority. Therefore, I deem it appropriate to set aside the impugned order and remand the matter back for reconsideration.

In the result, the writ petition is allowed and the impugned order in S.A.No.40 of 1995 dated 8.12.1995 on the file of the Second Appellate Authority under the A.P. Shops and Establishment Act, 1988 and the Assistant Commissioner of Labour, Hyderabad-IV is set aside. The matter is remitted back to the Second Appellate Authority for fresh consideration of the matter after issuing notice to the petitioner. However, it is made clear that this writ petition stands dismissed against Respondent No.3-Gundu Singh S/o Eshwar Singh. The appellate authority may proceed against other respondents. There shall be no order as to costs.

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C.V.RAMULU, J

Date: 5.12.2006

Note:
Issue C.C. in one week.
B/o
DA

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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19689 of 1996

Date: 5th December, 2006

Between:

The Management of Andhra Express Services
Pvt. Ltd. rep. by its Assistant Manager,
Syed Nayeemuddin

.. Petitioner

And

The Appellate Authority under Section 53 (1) of
S&E Act and Assistant Commissioner of Labour-IV,
Musheerabad, Hyderabad & others.

.. Respondents